

1984 S.C. Op. Atty. Gen. 272 (S.C.A.G.), 1984 S.C. Op. Atty. Gen. No. 84-119, 1984 WL 159926

Office of the Attorney General

State of South Carolina

Opinion No. 84-119

October 4, 1984

*1 Jeffrey A. Merriam, Esquire
Greer City Attorney
Post Office Box 10828
Greenville, South Carolina 29603

Dear Mr. Merriam:

In a letter to this Office you questioned whether a circuit judge may impose monetary contributions to the public defender fund in lieu of a fine when sentencing defendants for violations of [Sections 16-23-20](#) and [16-23-30, Code of Laws of South Carolina](#), 1976, as amended. You particularly referenced a case, State v. Willie Gene Martin (82-GS-23-3099), where following a plea of guilty to violating [Section 16-23-20](#), the defendant received a sentence of imprisonment for one year or payment of a fine of one thousand (\$1,000.00) dollars ‘. . . suspended upon payment of two hundred (\$200.00) dollars to the public defender fund.’

As referenced by you, [Section 16-23-50, Code of Laws of South Carolina](#), 1976, as amended, provides that where a violation of [Sections 16-23-20](#) or [16-23-30](#) occurs within a municipality, any fine collected as a result of such violation is to be delivered to the municipality. However, as noted by you, the fine in the Martin case was suspended upon payment of an amount to the public defender fund.

Generally, pursuant to [Section 24-23-110, Code of Laws of South Carolina](#), 1976, as amended, ‘judges of the Court of General Sessions may suspend the imposition or the execution of a sentence and may impose a fine and a restitution without requiring probation.’ In a previous opinion of this Office, 1978 Op. Atty. Gen. No. 78-110 p. 140, a copy of which is enclosed, it was stated that ‘certain municipal courts may order a convicted indigent defendant to reimburse the Judicial Department for the costs of his representation by a public defender.’

This Office has re-examined the referenced opinion and has not found any basis for determining it to be inapplicable to defendants sentenced in General Sessions Court. Moreover, the sentencing practice used by Judge Eppes in Martin also does not appear to violate [Section 16-23-50, supra](#), inasmuch as such statute provides for the manner of delivering fines when an offense occurs within a municipality. As stated, here the fine was suspended. Therefore, the sentencing practice in the particular case referenced was not in conflict with [Section 16-23-50, supra](#).

If there are any questions concerning the above, please contact me.

Sincerely,

Charles H. Richardson
Assistant Attorney General

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